

[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 61, 91, 135

[Docket No. FAA-2006-24981; Notice No. 06-14A]

RIN 2120-AI82

Special Federal Aviation Regulation No. XX – Mitsubishi MU-2B Series Airplane

Special Training, Experience, and Operating Experience

AGENCY: Federal Aviation Administration, DOT.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: The Federal Aviation Administration (FAA) is revising its proposed Special Federal Aviation Regulation that would be applicable to the Mitsubishi MU-2B series airplane. As a result of comments received on the notice of proposed rulemaking, the FAA is amending the proposal to add certain definitions related to pilot experience into the Mitsubishi training program. This document seeks public comment on those changes.

DATES: Send your comments on or before *[Insert date 30 days after date of publication in the Federal Register.]*

ADDRESSES: You may send comments to Docket No. FAA-2006-24981 using any of the following methods:

- Department of Transportation (DOT) Docket web site: Go to <http://dms.dot.gov> and follow the instructions for sending your comments electronically.

- Government-wide rulemaking web site: Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.
- Mail: Docket Management Facility; US Department of Transportation, 400 Seventh Street, S.W., Nassif Building, Room PL-401, Washington, DC 20590-0001.
- Fax: 1-202-493-2251.
- Hand Delivery: Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, S.W., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Pete Devaris, Federal Aviation Administration, General Aviation and Commercial Division AFS-820, Room 835, 800 Independence Avenue S.W., Washington, DC 20591; telephone (202) 493-4710; facsimile (202) 267-5094; or e-mail: *Peter.Devaris@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this

proposed rulemaking. The docket is available for public inspection before and after the comment closing date. If you wish to review the docket in person, go to the address in the ADDRESSES section of this preamble between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. You may also review the docket using the Internet at the web address in the ADDRESSES section.

Privacy Act: Using the search function of our docket web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the Federal Register published on April 11, 2000 (65 FR 19477-78) or you may visit <http://dms.dot.gov>.

Before acting on this proposal, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change this proposal in light of the comments we receive.

Proprietary or Confidential Business Information

Do not file in the docket information that you consider to be proprietary or confidential business information. Send or deliver this information directly to the person identified in the FOR FURTHER INFORMATION CONTACT section of this document. You must mark the information that you consider proprietary or confidential. If you send the information on a disk or CD ROM, mark the outside of the disk or CD ROM and also identify electronically within the disk or CD ROM the specific information that is proprietary or confidential.

Under 14 CFR 11.35(b), when we are aware of proprietary information filed with a comment, we do not place it in the docket. We hold it in a separate file to which the public does not have access, and place a note in the docket that we have received it. If we receive a request to examine or copy this information, we treat it as any other request under the Freedom of Information Act (5 U.S.C. 552). We process such a request under the DOT procedures found in 49 CFR part 7.

Availability of Rulemaking Documents

You can get an electronic copy using the Internet by:

- (1) Searching the Department of Transportation's electronic Docket Management System (DMS) web page (<http://dms.dot.gov/search>);
- (2) Visiting the FAA's Regulations and Policies web page at http://www.faa.gov/regulations_policies/; or
- (3) Accessing the Government Printing Office's web page at <http://www.gpoaccess.gov/fr/index.html>.

You can also get a copy by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM-1, 800 Independence Avenue S.W, Washington, DC 20591, or by calling (202) 267-9680. Make sure to identify the docket number, notice number, or amendment number of this rulemaking.

SUPPLEMENTAL INFORMATION

Authority for this Rulemaking

The Federal Aviation Administration's (FAA) authority to issue rules on aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106, describes the authority of the FAA Administrator to issue, rescind, and revise the rules. This

rulemaking is promulgated under the authority described in Subtitle VII, Aviation Programs, Part A, Air Commerce and Safety, Subpart III, Safety, Section 44701, General Requirements. Under that section, the FAA is charged with prescribing regulations setting the minimum standards for practices, methods, and procedures necessary for safety in air commerce. This regulation is within the scope of that authority because it will set the minimum level of safety to operate the Mitsubishi MU-2B series airplane.

The Reasons for a Revised Proposal

The FAA issued a notice of proposed rulemaking, Special Federal Aviation Regulation No. XX – Mitsubishi MU-2B Series Airplane Special Training, Experience, and Operating Experience, which was published in the Federal Register on September 28, 2006 (71 FR 56905). After the close of the comment period on October 30, 2006, the FAA received two comments on specific provisions of the Mitsubishi Training Program that would become mandatory under the proposed rule. Both commenters noted that the term “operating experience” in the past 2 years as used as a threshold for Requalification training was not defined and suggested that the FAA clarify the meaning of the term “operating experience” with a reference to a specified number of flight hours of Mitsubishi MU-2B series airplane experience.

With this supplemental notice the FAA proposes to define the terms “Initial/Transition,” “Requalification,” and “Recurrent” training to clarify the phrase “operating experience” as that phrase is used in the Mitsubishi MU-2B Training Program, Part Number YET05301, revision 1. The FAA’s intent in the NPRM was that, depending upon a pilot’s level of “operating experience,” the pilot would be required to take a specific level of training - Initial/Transition, Requalification, or Recurrent.

Because we were not specific in use of the term “operating experience,” the public was not advised as to the circumstances where the FAA expected a pilot to undergo Initial/Transition training versus Requalification training or Recurrent training. Without specific guidance, a pilot might attend Requalification training, when it was the intention of the FAA that the pilots attend Initial/Transition training, which is more demanding than Requalification or Recurrent training.

The FAA has been monitoring training implementation. We believe that some pilots, with little or no experience flying the Mitsubishi MU-2B series airplane, may request training at the Requalification level when it was the FAA’s intention that such pilots attend training at the Initial/Transition level. In this scenario a pilot could attend Requalification training without any previous experience in actually flying the airplane. The FAA notes that requalification can be conducted entirely in a FAA approved level 5 or higher Flight Training Device (FTD), or simulator. A pilot could complete Requalification training without ever having flown the actual airplane. We consider this a serious compromise to the level of safety we intended to provide. It is of particular urgency that the training program be revised so that such an option is not available.

Although the comment period has closed, we find that these comments should be addressed by the FAA, clarifying the levels of experience required with a specific number of hours as suggested by the commenters. Thus, we are issuing this SNPRM to seek the public’s comments on the revised definitions provided in this document.

If adopted, the definitions we are proposing may be part of a new definitional section of the SFAR or we may choose to incorporate them into a revision to the Mitsubishi MU-2B Training Program. We have included the proposed revision as it

would appear in a revised Mitsubishi Training Program and as it would appear if we place the definitions into the language of the SFAR.

When the FAA prepared the draft Regulatory Evaluation for the proposed SFAR, we assumed that only experienced pilots would be eligible for Requalification or Recurrent training and we assumed those pilots would have, at a minimum, the levels of experience set forth in the new proposed definitions. Therefore, providing a more explicit definition of operating experience would not increase the estimated costs in the draft regulatory evaluation.

The Definitions

The following definitions appeared in the Mitsubishi MU2-B Training Program, revision 1, which was placed in the Rules Docket and available for public comment:

Initial/Transition training applies to any pilot without documented MU-2B pilot operating experience in the last two years. Simultaneous training and checking is not allowed for Initial/Transition Training.

Requalification training applies to any pilot with documented MU-2B pilot operating experience in the last two years, but who does not meet the eligibility requirements for Recurrent Training.

Recurrent training applies to any pilot who completed and has documented training on this FAA-Approved Mitsubishi Training Program for the MU-2B in the last 12 months and is MU-2B current in accordance with the MU-2B Special Federal Aviation Regulations (SFAR). Training completed the month before or after the month it is due is considered completed in the month due (base month).

The New Definitions.

The FAA is proposing the following new definitions as part of this supplemental notice of proposed rulemaking:

Initial/Transition training means the training that a pilot is required to receive if that pilot has fewer than 50 hours of documented flight time manipulating the controls, while serving as pilot-in-command, of a Mitsubishi MU-2B series airplane in the preceding 24 months.

Requalification training means the training that a pilot is -

- (a) Eligible to receive in lieu of Initial/Transition training if that pilot has at least 50 hours of documented flight time manipulating the controls, while serving as pilot-in-command, of a Mitsubishi MU-2B series airplane in the preceding 24 months; and
- (b) Required to receive if it has been more than 12 months since that pilot successfully completed Initial/Transition, Requalification, or Recurrent training. Successful completion of Initial/Transition training can be used to satisfy the requirements of Requalification training.

Recurrent training means the training that a pilot is required to have satisfactorily completed within the preceding 12 months. Successful completion of Initial/Transition or Requalification training within the preceding 12 months satisfies the requirement of Recurrent training. A pilot must successfully complete Initial/Transition training or Requalification training before being eligible to receive Recurrent training.

Listed below are explanations for the proposed new definitions in this SNPRM.

Initial/Transition training. Pilots with little or no previous experience flying the Mitsubishi MU-2B series airplane would be required to take Initial/Transition training under this proposed SFAR. Pilots required to take Initial/Transition training include those who have had less than 50 hours of flight time manipulating the controls while serving as the pilot-in-command of a MU-2B. We believe that pilots who have fewer than 50 hours of such flight time in the MU-2B within the preceding 24 months are not sufficiently familiar with the airplane's operating systems or safe operational techniques and procedures. Therefore, Initial/Transition training would provide those pilots with a curriculum comprehensive enough to reduce the chances of an accident or incident arising from a lack of familiarity with the airplane's operational systems, techniques, and procedures.

The FAA thinks that the complexity of this airplane requires that a pilot repeatedly receive training on an annual basis and actively fly this airplane in order to maintain an acceptable level of proficiency. Under the proposed definition, a pilot may be required to repeat Initial/Transition training if he or she has not accumulated 50 hours of flight time in the preceding 24 months.

Requalification Training. The FAA would like to emphasize two important elements of Requalification training. First, pilots would be eligible for Requalification training, in lieu of Initial/Transition training, if within the preceding 24 months they have documented at least 50 hours of flight time while serving as pilot-in-command and manipulating the controls of a MU-2B series airplane. The FAA recognizes that those pilots, who are actively flying the MU-2B series airplane to this level, may have sufficient familiarity with the airplane's handling characteristics and operating systems,

and therefore, the more in-depth and comprehensive Initial/Transition training would not be necessary. In this case, the Requalification training is an acceptable alternative to Initial/Transition training.

Second, pilots who fail to successfully complete Initial/Transition, Requalification, or Recurrent training within the preceding 12 months must attend Requalification training (i.e., they are not eligible for Recurrent training) before they could operate the MU-2B series airplane. If the pilot chooses to take Initial/Transition training in lieu of Requalification training, Initial/Transition training would satisfy all the requirements of Requalification training.

Recurrent training. All persons who operate the MU-2B series airplane must satisfactorily complete Recurrent training within the preceding 12 months. Successful completion of Initial/Transition or Requalification training within the preceding 12 months satisfies the requirement of Recurrent training. A pilot must successfully complete Initial/Transition training or Requalification training before being eligible to receive Recurrent training.

Proposed Revision to the Mitsubishi Training Program.

If the FAA elects to revise the Mitsubishi MU-2B Training Program, revision 1, we would correct the language as set out in this section.

MU-2B SERIES

TRAINING PROGRAM

TRAINING REQUIREMENTS

* * * * *

Initial/Transition training means the training that a pilot is required to receive if that pilot has fewer than 50 hours of documented flight time manipulating the controls, while serving as pilot-in-command, of a Mitsubishi MU-2B series airplane in the preceding 24 months.

Requalification training means the training that a pilot is -

(a) Eligible to receive in lieu of Initial/Transition training if that pilot has at least 50 hours of documented flight time manipulating the controls, while serving as pilot-in-command, of a Mitsubishi MU-2B series airplane in the preceding 24 months; and

(b) Required to receive if it has been more than 12 months since that pilot successfully completed Initial/Transition, Requalification, or Recurrent training. Successful completion of Initial/Transition training can be used to satisfy the requirements of Requalification training.

Recurrent training means the training that a pilot is required to have satisfactorily completed within the preceding 12 months. Successful completion of Initial/Transition or Requalification training within the preceding 12 months satisfies the requirement of Recurrent training. A pilot must successfully complete Initial/Transition training or Requalification training before being eligible to receive Recurrent training.

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Paperwork Reduction Act

The FAA has submitted the paperwork requirements for this rulemaking to the Office of Management and Budget for approval. There were no comments received on

the paperwork as a result of the publication of the NPRM, and the paperwork requirements are not changed by the clarification of the terms in this proposal.

International Compatibility

The FAA has determined that a review of the Convention on International Civil Aviation Standards and Recommended Practices is not warranted because there is no comparable rule under ICAO Standards.

Executive Order 12866 and DOT Regulatory Policies and Procedures

Proposed changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (19 U.S.C. section 2531-2533) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this Trade Act also requires agencies to consider international standards and, where appropriate, use them as the basis of U.S. standards. And fourth, the Unfunded Mandates Reform Act of 1995 requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of \$100 million or more annually (adjusted for inflation.)

In conducting these analyses, FAA determined that the proposed rule 1) has benefits which do justify its costs, is not a “significant regulatory action” as defined in

the Executive Order and is not “significant” as defined in DOT's Regulatory Policies and Procedures; 2) will not have a significant impact on a substantial number of small entities; 3) reduces barriers to international trade; and 4) does not impose an unfunded mandate on state, local, or tribal governments, or on the private sector. This supplemental proposal it is simply a clarification of the FAA intent and thus would not increase the estimated costs in the initial regulatory evaluation.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) of 1980, (5 U.S.C. 601 et seq.) directs the FAA to fit regulatory requirements to the scale of the business, organizations, and governmental jurisdictions subject to the regulation. We are required to determine whether a proposed or final action will have a significant impact on a substantial number of "small entities" as defined by the Act. If we find that the action will have a significant impact, we must do a "regulatory flexibility analysis."

This clarification of the proposed rule has a minimal economic impact. Therefore, we certify that this proposed action would not have a significant economic impact on a substantial number of small entities.

Trade Impact Assessment

The Trade Agreement Act of 1979 prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and where appropriate, that they be the basis for U.S. standards. The FAA has assessed the potential effect of this supplemental notice and has determined that it will

impose the same costs on domestic and international entities and thus has a neutral trade impact.

Unfunded Mandates Assessment

The Unfunded Mandates Reform Act of 1995 (the Act), enacted as Pub. L. 104-4 on March 22, 1995, is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments. Title II of the Act requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in a \$100 million or more expenditure (adjusted annually for inflation) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a “significant regulatory action.” The FAA currently uses an inflation-adjusted value of \$128.1 million in lieu of \$100 million.

This supplemental notice does not contain such a mandate. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply.

Executive Order 13132, Federalism

The FAA has analyzed this proposed rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action would not have a substantial direct effect on the State, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, we have determined that this proposed rule does not have federalism implications.

Environmental Impact

FAA Order 1050.1E identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act in the absence of extraordinary circumstances. The FAA has determined this proposed rulemaking action qualifies for the categorical exclusion and involves no extraordinary circumstances.

List of Subjects

14 CFR Part 61

Aircraft, Airmen, Aviation Safety, Incorporation by reference, Reporting and recordkeeping requirements, Safety measures.

14 CFR Part 91

Aircraft, Airmen, Airports, Aviation safety, Freight, Incorporation by reference, Reporting and recordkeeping requirements.

14 CFR Part 135

Air taxis, Aircraft, Airmen, Aviation safety, Incorporation by reference, Reporting and recordkeeping requirements.

The Proposal

In consideration of the foregoing, the Federal Aviation Administration proposes to amend chapter I of title 14, Code of Federal Regulations, as follows:

PART 61--CERTIFICATION: PILOTS, FLIGHT INSTRUCTORS, AND GROUND INSTRUCTORS

1. The authority citation for part 61 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44703, 44707, 44709–44711, 45102–45103, 45301–45302.

2. Add Special Federal Aviation Regulation (SFAR) No. XX as follows:

Special Federal Aviation Regulations

* * * * *

SFAR No. XX -- Mitsubishi MU-2B Series Airplane Special Training, Experience, and Operating Requirements

NOTE: For the text of SFAR No. XX, see part 91 of this chapter.

PART 91—GENERAL OPERATING AND FLIGHT RULES

3. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. 106(g), 1155, 40103, 40113, 40120, 44101, 44111, 44701, 44704, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46504, 46506–46507, 47122, 47508, 47528–47531, articles 12 and 29 of the Convention on International Civil Aviation (61 stat. 1180).

4. Add SFAR No. XX to read as follows:

Special Federal Aviation Regulation (SFAR) No. XX--Mitsubishi MU-2B Series Special Training, Experience, and Operating Requirements.

Note: The FAA proposes to add the following language to its proposal at 71 FR 56905, September 28, 2006.

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X. Definitions. As used in this Special Federal Aviation Regulation:

Initial/Transition training means the training that a pilot is required to receive if that pilot has fewer than 50 hours of documented flight time manipulating the controls,

while serving as pilot-in-command, of a Mitsubishi MU-2B series airplane in the preceding 24 months.

Requalification training means the training that a pilot is --

(a) Eligible to receive in lieu of Initial/Transition training if that pilot has at least 50 hours of documented flight time manipulating the controls, while serving as pilot-in-command, of a Mitsubishi MU-2B series airplane in the preceding 24 months; and

(b) Required to receive if it has been more than 12 months since that pilot successfully completed Initial/Transition, Requalification, or Recurrent training.

Successful completion of Initial/Transition training can be used to satisfy the requirements of Requalification training.

Recurrent training means the training that a pilot is required to have satisfactorily completed within the preceding 12 months. Successful completion of Initial/Transition or Requalification training within the preceding 12 months satisfies the requirement of Recurrent training. A pilot must successfully complete Initial/Transition training or Requalification training before being eligible to receive Recurrent training.

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**PART 135—OPERATING REQUIREMENTS: COMMUTERS AND ON
DEMAND OPERATIONS AND RULES GOVERNING PERSONS ON BOARD
SUCH AIRCRAFT.**

5. The authority citation for part 135 continues to read as follows:

Authority: 49 U.S.C. 106(g), 41706, 44113, 44701–44702, 44705, 44709, 44711–44713, 44715–44717, 44722.

6. Add Special Federal Aviation Regulation (SFAR) No. XX as follows:

Special Federal Aviation Regulations

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SFAR No. XX – Mitsubishi MU-2B Series Airplane Special Training, Experience, and Operating Requirements

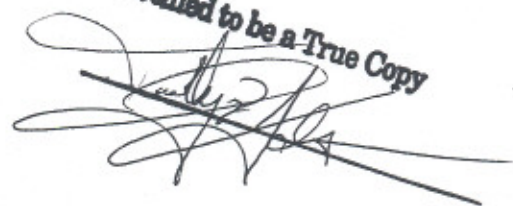
NOTE: For the text of SFAR No. XX, see part 91 of this chapter.

Issued in Washington, DC on

DEC 22 2006


John M Allen

Acting Director, Flight Standards Service


Certified to be a True Copy